

December 2, 2021

VIA ELECTRONIC MAIL ONLY

Felix Lopez
Ecologist and Contaminants Specialist
U.S. Fish and Wildlife Service
Caribbean Ecological Services Field Office
P.O. Box 491 / Road 301, Km 5.1
Boquerón, Puerto Rico 00622

**Subject: Application for Consultation and Guidance
Eligibility Criterion for Interim SWPPP Plan
Protoco Landfill Superfund Site
Peñuelas, Puerto Rico**

Dear Mr. Lopez:

On behalf of the Protoco Landfill Superfund Site Generator Parties Group (the “Group”), Geosyntec Consultants, Inc. (“Geosyntec”) is submitting this letter to the US Fish and Wildlife Service (“USFWS”) office. The Group is committed under an October 2020 Administrative Order on Consent with the U.S. Environmental Protection Agency (“EPA”) to perform a Remedial Investigation/Feasibility Study at the Site. This letter is in response to our email communication (**Attachment C**) dated October 14, 2021, regarding our informal consultation with your office to assist us in the selection of an Eligibility Criterion under the Endangered Species Act (“ESA”) as part of a Stormwater Pollution Prevention Plan (“SWPPP”) for the Protoco Landfill Superfund Site located in Peñuelas, PR (the “Site”).¹

On behalf of the Group, Geosyntec submitted a clearing plan to the EPA, including the above-referenced SWPPP, for the Site (the “Clearing Plan”) to the EPA on September 24, 2021 (**Attachment B**). The Clearing Plan was approved by the EPA on October 4, 2021. The original scope of work for the proposed construction activity included clearing the approximately fifty-one (51) acres of vegetation with minimal disturbance. On November 30, 2021, the Group submitted a request to the EPA to reduce the area to be cleared from 51 acres to approximately forty-one (41)

¹ The Site operated as treatment, storage, and disposal facility (“TSDF”) of hazardous and non-hazardous waste from 1975 through 1999 and was abandoned in 2009. Since that time, there has been no maintenance of the Site. The Site has become overgrown with secondary forest growth consisting of small trees and a few mature trees.

acres. The Clearing Plan had included an area of approximately ten (10) acres that is east of Land Treatment Unit #14 and located outside of the Site boundary as defined by EPA.

The purpose of the Clearing Plan is to allow surveying of the former waste disposal units and Site boundary to facilitate a Site Reconnaissance. Site clearing activities will consist of cutting brush and small trees measuring less than four (4) inches in diameter and does not include the removal of tree stumps and roots (i.e., “grubbing” activities). During clearing, the contractor will set the cutting tools a minimum of six (6) inches from the ground surface to avoid impacting the root system or the existing soil cover. Additionally, the Clearing Plan indicates that areas with steep, natural, or engineered slopes at the Site will not be cleared of vegetation. The clearing process is expected to generate a thin layer of mulch of approximately 0-4 inches.

Our initial communication for consultation to your office was submitted as part of the preparation of the SWPPP on August 23, 2021. Section 3.1 of the SWPPP requires selection of an Eligibility Criterion in accordance with the ESA. Per Appendix D of the EPA Construction General Permit (“CGP”), Geosyntec contacted the USFWS to provide consultation/coordination on which measures to implement to reduce any potential adverse effects on ESA-listed species from the proposed construction activities. The purpose of the initial contact was to satisfy Criterion D in Section 3.1 of the SWPPP outlined below:

Criterion D: *Coordination between you and the USFWS and/or NMFS has concluded. The coordination must have addressed the effects of your site’s discharges and discharge-related activities on ESA-listed species and/or designated critical habitat under the jurisdiction of USFWS and/or NMFS and resulted in a written concurrence from USFWS and/or NMFS that your site’s discharges and discharge-related activities are not likely to adversely affect listed species and/or critical habitat. You must include copies of the correspondence with the participating agencies in your SWPPP and this NOI.*

A preliminary assessment from the USFWS Information for Planning and Consultation (IPaC) website indicates there may be the following six (6) ESA-listed species potentially affected by the site clearing activities within the project area:

- Guabairo - Puerto Rican Nightjar *Caprimulgus noctitherus*
- Puerto Rican Boa *Epicrates inornatus*
- Bariaco *Trichilia triacantha*
- Eugenia Woodbury *Eugenia woodburyana*
- Diablito Tres Cuernos *Buxus vahlii*
- Varronia *rupicola*

These ESA-listed species are also included in your email communication dated October 14, 2021. Based on your recommendations, Geosyntec retained the services of an independent environmental contractor, Diatom Environmental (“Diatom”), in order to survey the proposed clearing areas, prior to advancing the machinery for the clearing work, and to identify the presence, or lack thereof, of the ESA-listed plant and fauna species, and propose avoidance and/or minimization measures to eliminate and/or reduce adverse impacts to any identified species. Diatom conducted the biological survey on November 3-4, 2021 under the supervision of Geosyntec personnel. A copy of the Diatom survey report, dated November 2021, is included as **Attachment A**. The report concluded the following:

- Diatom observed many insects, reptiles, and birds, living in the area during the inspections. The Puerto Rican Nightjar or Guabairo (*Caprimulgus noctitherus*) was the only ESA-listed species observed at the Site in one of the two Diatom nocturnal walks. Diatom recorded over approximately ten individuals of the Guabairo across the entire property. The Puerto Rican Boa was not identified in any of the Site walks.
- Other birds were observed during the diurnal surveys, including the Mockingbird (*Mimus polyglottos*), the Greater Antilles grackle (*Quiscalus niger*), Tórtola aliblanca (*Zenaida asiatica*), Pájaro Bobo Menor (*Coccyzus minor*), and the Reinita Mariposera (*Setophaga adelaidae*). None of these species are ESA-listed or protected species.
- The area is a parcel with secondary succession-growth forest.
- All the observed species (wildlife, plant associations, and birds) are commonly found in the southern xerophytic coastal forest in Puerto Rico.
- Regarding the possible identification of the Puerto Rican Boa, Diatom did not identify any individuals of the species while walking on the Site.
- Diatom did not identify any of the ESA-listed plant species while walking on the Site.

Based on the results of Diatom’s Biological Survey, it is Geosyntec’s determination, in accordance with Criterion D in Section 3.1 of the SWPPP, that the discharge or discharge-related activities from the EPA-approved Clearing Plan is not likely to have an adverse effect on the above-listed species, and the following proposed avoidance and minimization measures should be implemented in the field:

1. All project personnel will be briefed about the potential presence of the Puerto Rican Nightjar prior to performing any the clearing activities.
2. The proposed clearing work should be conducted in areas that were surveyed and preferably no later than January 15, 2022, or two (2) weeks prior to the beginning of the nesting season of the Puerto Rican Nightjar.
3. If any ESA-listed species are sighted, all work in the area should stop and clearing should be modified to protect the area in which the sighting was made.

4. For any construction work that will occur after February 1, 2022, a qualified scientist will survey the areas to be impacted before initiating work. If Puerto Rican Nightjars are found displaying courtship behavior or nesting, the clearing contractor will be instructed to not disturb the birds and move away from the area. A 20-meter exclusion zone around the sighting area should be clearly established and enclosed with a no trespassing tape or similar high visibility markings. The contractor shall not begin any type of work in that area until further searches are conducted by a qualified scientist to verify there is no nesting or brooding activity. The qualified scientist shall also consider that any Puerto Rican Nightjar displaying distraction behavior is consistent with the presence of an active nest or nestlings. Such an observation shall be tagged as a nesting site as well, even though a nest may not be observed as present.²
5. No heavy equipment (e.g., bulldozers, or cutters) shall be allowed at or near the established 20-meter exclusion zone. This type of machinery shall not be used in this area until the Puerto Rican Nightjar chicks leave the nesting site on their own, as verified by a qualified scientist. Relocation of individuals or their nest is not authorized.
6. If a dead, injured, or sick Puerto Rican Nightjar or any other threatened or endangered species is located, initial notification must be made immediately by the qualified scientist to the U.S. Fish and Wildlife Service Law Enforcement Office, 10426 NW 31 Terrace, Miami, Florida 33172 (305/526-2789). Notification should also be made, by the next workday, to the U.S. Fish and Wildlife Service Caribbean Ecological Service Field Office (CESFO) via email. Additional notification should also be made immediately to the Department of Natural and Environmental Resources-Ranger Division.
7. For injured or sick Puerto Rican Nightjar, the qualified scientist shall record the GPS position and provide information about the sighting, the habitat, and the behavior of the species. Care should be taken in handling sick, injured, or dead specimens to ensure effective treatment or the preservation of biological materials for later analysis. In conjunction with the care of sick or injured threatened or endangered species or with the preservation of biological materials from a dead animal, the qualified scientist should take responsible steps to ensure that the site is not disturbed.

As part of our consultation with USFWS, Geosyntec respectfully requests written concurrence from USFWS that the Site's discharges and discharge-related activities are not likely to adversely affect listed species and/or critical habitat based on the above proposed avoidance and minimization measures to be implemented.

² The construction work is currently scheduled to begin the week of December 6, 2021. Diatom, a qualified scientist, performed this survey on November 3-4, 2021 and did not observe courtship behavior or nesting of the Puerto Rican Nightjars, as described in **Attachment A**.

Mr. Lopez
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The proposed clearing activities are scheduled to commence the week of December 6, 2021, but we understand that Geosyntec will not be able to start the project until a concurrence from USFWS is received. We appreciate your attention to this matter. Please contact the undersigned if there are any questions.

Sincerely,
Geosyntec Consultants of PR, PC.



Jaime Feliciano, P.G.
Senior Geologist



Amy Padovani, P.E.
Senior Engineer

Attachments: A. Diatom's Biological Survey Report dated November 2021.
B. Clearing Plan and SWPPP dated September 24, 2021 (separate PDF document).
C. Copy of email from Felix Lopez of USFWS to Geosyntec dated October 14, 2021.

Copies To: Adrienne Miller, Geosyntec
Todd Kafka, Geosyntec

.ATTACHMENTS

ATTACHMENT A



FLORA AND FAUNA SURVEY FOR LISTED
SPECIES AT THE OLD PROTECO LANDFILL
SITE IN THE AUTONOMOUS MUNICIPALITY
OF PEÑUELAS, PUERTO RICO



NOVEMBER 2021



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INTRODUCTION

FLORA AND FAUNA SURVEY OF LISTED PLANTS, REPTILES, AND BIRDS SPECIES IN THE EXISTING OLD PROTECO LANDFILL SITE LOCATED IN THE AUTONOMOUS MUNICIPALITY OF PEÑUELAS, PUERTO RICO

Geosyntec Consultants is implementing a Vegetation Clearing Plan (CP) for the Proteco Landfill Superfund Site (Site) located in the Municipality of Penuelas, Puerto Rico, on behalf of the Proteco Landfill Superfund Site Generator Parties Group (Group). These activities are part of an agreement with the United States Environmental Protection Agency to conduct an assessment, clearing, and remediation work at the selected Site. Most of the Site is currently covered with heavy overgrowth of secondary, dry-forest vegetation, limiting physical and visual access. The overgrowth also prevents surveying the locations of Site boundary fences, former disposal units, leachate collection systems, above-ground tanks, monitoring wells, and passive gas system components. The brush and small trees currently cover the Site are generally less than four (4) inches in diameter. In some regions of the Site, there are isolated trees with trunk diameters greater than four (4) inches and are easily identifiable (Figure #1). The area where the clearing activities are being proposed maintains a use qualification of Heavy-Industrial and land qualification of Rustic-Common Soils by the Puerto Rico Planning Board. The Proteco Landfill has been closed for more than two decades.

The area has been identified by the Puerto Rico Department of Natural and Environmental Resources and the US Fish and Wildlife Service as the habitat for a series of plants and animals listed under the Endangered Species Act. Our team conducted a flora and fauna survey of the Site to whether those species listed by the state and federal agencies are present at the Site (table #1 ESA Listed Species).



Figure #1 Photo showing the general location of the PROTECO site in Peñuelas, Puerto Rico. The yellow line shows the approximate site boundary.

Group	Scientific Name	Common Name	Survey
Reptile	<i>Epicrates inornatus</i>	Puerto Rican Boa	Diurnal/Nocturnal
Bird	<i>Caprimulgus noctitherus</i>	Guabairo – Puerto Rican Nightjar	Nocturnal/Diurnal
Plant	<i>Trichilia Triacantha</i>	Bariaco	Diurnal
Plant	<i>Eugenia woodburyana</i>	Eugenia Woodbury	Diurnal
Plant	<i>Buxus vahlii</i>	Diablito Tres Cuernos	Diurnal
Plant	<i>Varronia rupicola</i>	Varronia	Diurnal

Table #1 List of targeted species covered by the Endangered Species Act.

Our team completed a field survey at the Site on November 3 and 4, 2021. We completed four surveys, two diurnal and two nocturnal, to increase the opportunity of observing both the Puerto Rican Nightjar (*Caprimulgus noctitherus*) and the Puerto Rican Boa (*Epicrates inornatus*). The daily surveys started at 6:30 am until 11:00 am, and the nocturnal surveys at 6:30 pm until 8:15 pm. The following technical opinion represents the conditions observed during the walkthrough.

Description of the Site

The Site is composed mainly of xerophytic dry forest. The vegetation growth observed is the product of almost two decades of inactivity and lack of maintenance work. Secondary growth was observed where trees, shrubs, and plants colonized the abandoned lands. We surveyed more than two dozen of cattle roaming the Site. The animals have cleared most of the plants growing below the tree canopy. We observed that many of the existing plants not being eaten by the herd are not edible. Under normal conditions (forest not having animals grazing the ground), the soils are covered with dry leaves, detritus. The heavy impact by the grazing animals and continuous movement shows arid land and very few areas with green overgrowth.

Field Observations

Our team found several sections of the Site segregated with barbed wire. However, the wire conditions were mainly poor, allowing the cattle to roam freely around the premises. There is no defined access gate or trail to the Site. Our team entered through the center of the north side to conduct the site inspection, following the paths left by the animals. The existing conditions allowed the team to walk the entire Site clearing area following a zigzag pattern (west to east) of no more than 10 feet. There are dozens of dead trees scattered over the ground. Trees and plants observed are common to the ecosystems of the south coastal dry forest and represent the overgrown vacant land lots. The biological associations are common to upland systems.

Most of the area comprises secondary-growth forests with common species, vines, palms, shrubs, and other plants included in Table#2 (Other species observed at the Site are not the ESA listed species).

Table #2: Other species observed at the Site which are not the ESA listed species. Additional non-ESA species were observed but not included in the table.

Trees			
Common Name	Scientific Name	Location	Other Information
Carrasco	Comocladia dodonea	All areas	Toxic to the Skin
Cotorrera	Heliotropium indicum	Central Cell north of the Office Building	Native
Nigua	Myriopus volubilis	All areas	Native Vine
Adormidera	Croton flavens	All areas	Native
Lechecillo	Croton discolor	Zone 14 and Central Area	Some people are sensitive to the latex
Zarcilla	Leucaena leucocephala	The northern side of the main parcel	Small thorns
Senna	Senna uniflora	All disturbed zone	Native
Tamarindo silvestre	Vachellia macracantha	All areas	Native
Yerba egipcia	Dactyloctenium aegyptium	Close to the access areas	Invasive
Berenjena de playa	Solanum bahamense	All areas	Native

✚ All the plants, shrubs, vines, and trees observed in the Site were common, native, or grew from seeds reached the area by foraging birds.

✚ Observations of the Puerto Rican Nightjar occurred during the nocturnal surveys.

Bird sampling was conducted following methods described in Wunderle (1994) for surveying terrestrial birds in the Caribbean that we modified to carry out this type of work. The modification consisted of expanding the observation radius because it allows including species out of the sample if we use the 25m (75ft) radius standard in the scientific literature.

Our team identified the Puerto Rican Nightjar (*Caprimulgus noctitherus*) during the two nocturnal surveys. During the first night, the first recorded vocalization was detected around 7:00 pm on the eastern side of the Office Building, outside, and to the south of Site, where large Ucar trees (*Bucida buceras*) are located. The species was observed approximately 25 feet from the Site's southern boundary. The bird stayed off-site in the forested area.

Additionally, on the first nocturnal survey, our team documented the vocalization of several other Puerto Rican Nightjar individuals on the fringes of the forested areas surrounding the proposed clearing areas of the Site. These are areas of steep slopes at higher elevations where clearing activities are not to be conducted. During the first nocturnal survey, no individuals of the Puerto Rican Nightjar were documented in the Site, where vegetation clearing activities will occur.

On the second nocturnal survey, the Puerto Rican Nightjar was particularly active at night within the northern, central and southern portions of the Site. Also, more than eight individuals of the species were recorded within the eastern portion of the Site.

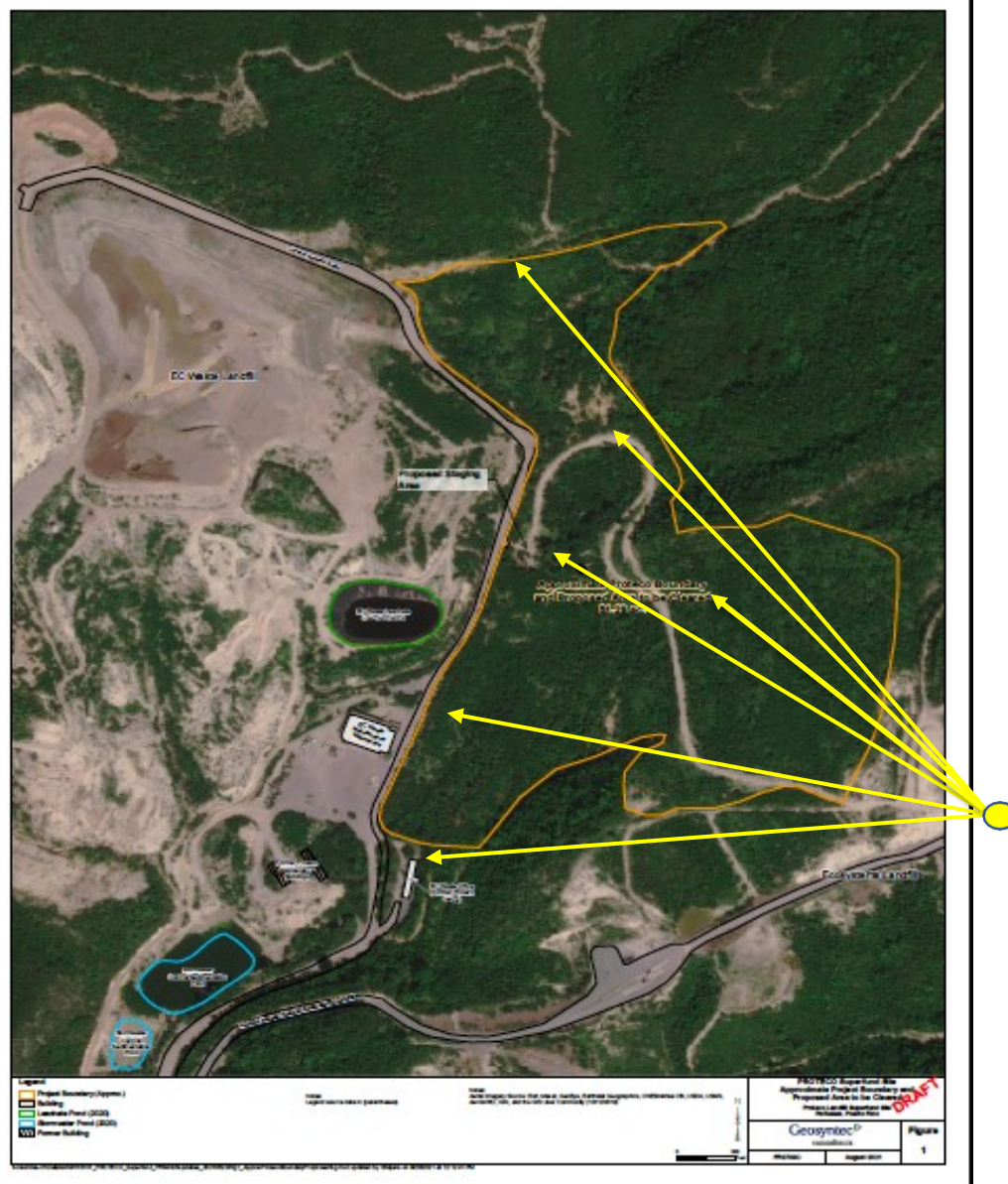


Figure #2. Recorded observations of the Puerto Rican Nightjar (*Caprimulgus noctitherus*) are shown with yellow arrows. Except for the individual observed off-site around the Office building, all observations were made inside the Site where vegetation clearing activities are being proposed.

PHOTOGRAPHIC RECORD



Picture 1 One of the Puerto Rican Nightjars (*Caprimulgus noctitherus*) on the trees bordering the Site.



Picture 2 Picture of the tree Arbol de Papayo (*Metopium toxiferum*). Caution. Toxic



Picture 3 View of the prevalent ground conditions around the property. The ground is covered with trails.



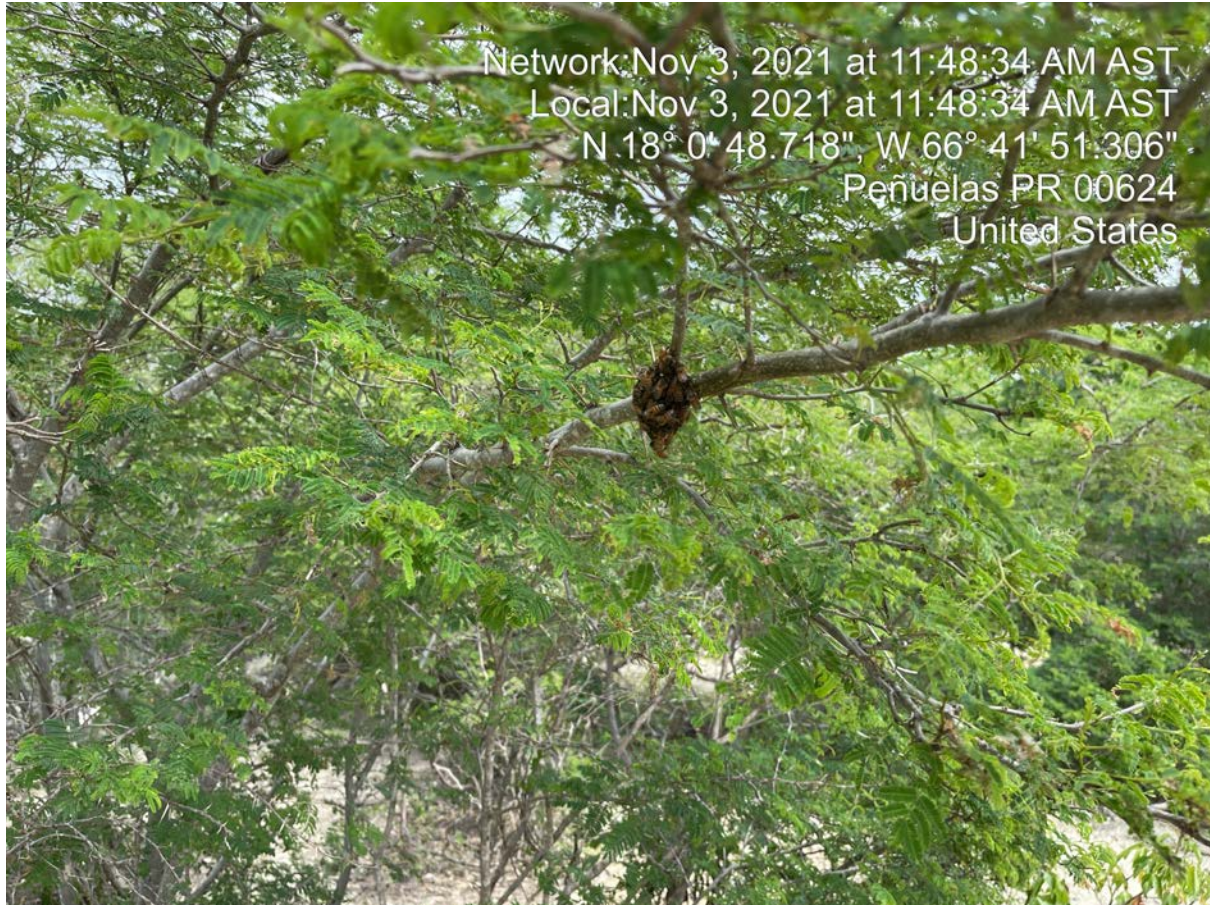
Picture 4 Conditions on both sides of the access roads towards Zone #14.



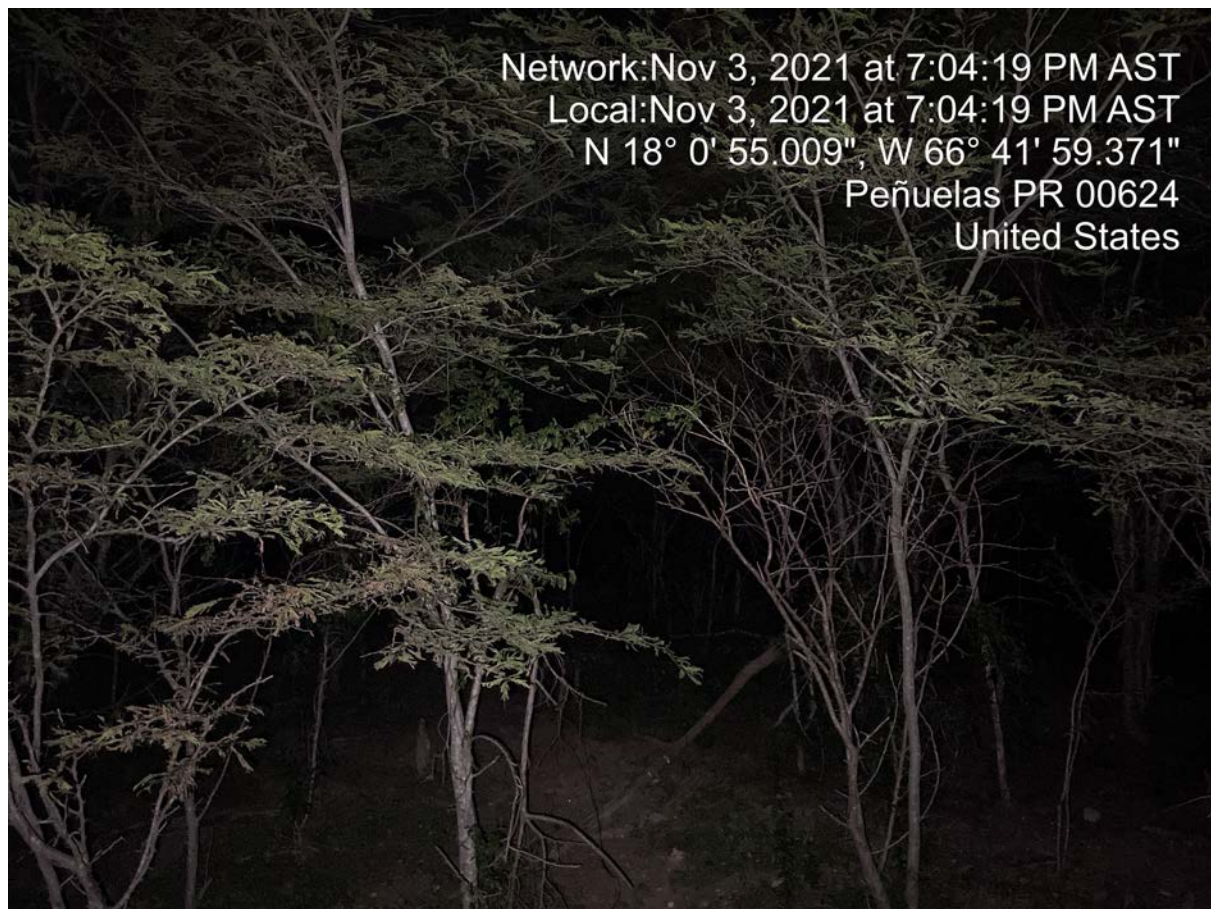
Picture 5 Another view of the existing ground conditions. The soil has been subject to intense use by grazing cattle.



Picture 6 Ground view toward the north side of the parcel.



Picture 7 A beehive in the process of forming. We identified two areas where bees are located. It is essential to pay attention while conducting the proposed work for safety purposes.



Picture 8 Nocturnal view of the study area.



Picture 9 Area where cattle are fed.



Picture 10: Close-up view of the Carrasco, another toxic and common species observed across the area.



Picture 11 View of the area towards the south side of the property.



Picture 12 View of the area toward the northwest side of the property.



Picture 13 We identified many common species in this part of the Island.

Technical Opinion and Conclusion

After conducting an inspection of the Site, we have concluded the following:

1. Our team surveyed the entire Site except for steep climbs where vegetation clearing activities will not be performed. We observed many insects, reptiles, and birds, living in the area during the inspections. The Puerto Rican Nightjar or Guabairo (*Caprimulgus noctitherus*) was observed both nights during the nocturnal walks. Our team recorded over ten individuals across the entire Site.
2. No other ESA-listed species (plants or reptiles) were identified at the Site and are not likely to be present at the Site.
3. Other birds were observed during the diurnal surveys, including the Mockingbird (*Mimus polyglottos*), the Greater Antilles grackle (*Quiscalus niger*), Tórtola aliblanca (*Zenaida asiatica*), Pájaro Bobo Menor (*Coccyzus minor*), and the Reinita Mariposera (*Setophaga adelaidae*). None of these species are protected or listed.
4. The Site is an area with secondary succession-growth forest.
5. All the observed species (wildlife, plant associations, and birds) are commonly found in the southern xerophytic coastal forest in Puerto Rico.

Note: There are several species, including bees and toxic trees, on the Site. It is important to consider their existence in the safety plan and while working on the property.

The proposed land clearing activities may affect but is not likely to adversely affect the listed species based on the proposed avoidance and minimization measures to be implemented. Some of these activities may include the following:

1. Briefing employees on the potential presence of the Puerto Rican Nightjar on the premises.
2. Using a Biologist to walk ahead of the machinery, spotting potential nesting sites in areas not surveyed (areas outside of the Site) or areas of steep slopes bordering the Site.

We understand that the proposed vegetation clearing activities may extend until the last week of January 2022. If there is a delay, we advise having a biologist walk the property during the clearing activities to verify that no nesting pairs of the Puerto Rican Nightjar use the ground. However, several dozens of cattle on the premises are a deterrent for this species of birds to build their nests.

Prepared by: 

Javier Vélez Arocho, CESCOPartner
Diatom Environmental Services, LLC

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ATTACHMENT B (Separate via email)

ATTACHMENT C

From: [Lopez, Felix](#)
To: [Jaime Feliciano](#); [Adrienne Miller](#)
Cc: [Amy Padovani](#); [Miguel Parames](#); luna.zolyamar@epa.gov
Subject: Re: [EXTERNAL] RE: Application for Consultation and Guidance, Eligibility Criterion for SWPPP Plan, Proteco Superfund Site, Penuelas, PR.
Date: Thursday, 14 October, 2021 3:12:52 PM
Attachments: [image001.png](#)

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Thanks Jaime. Ok based on your proposed actions, cutting vegetation to 6 inches, leaving trees with 4" dbh or greater standing, leaving mulched vegetation on the ground, how will that work affect your identified species:

Puerto Rican Nightjar *caprimulgus noctitherus*, Puerto Rican Boa *Epicrates inornatus*, Bariaco *Trichilia triacantha*, *Eugenia woodburyana*, Vahl's Boxwood *Buxus vahlii*, and *Varronia rupicola*

I sent you the boa conservation measures, if you stay out of the guabairo nesting season feb - august (missed it by a month in my last email).

For vegetation clearing in the Site Clearing Objectives you have the following criteria:

"The contractor will survey the proposed clearing area prior to advancing the machinery to identify and properly mark trees that do not meet the less than 4-inch diameter criterion."

This may have been a typo, but it reads a bit confusing. You can also add to this criteria the survey for listed plants, so it would read:

"The contractor will survey the proposed clearing area prior to advancing the machinery to identify listed plant species and properly mark trees that meet 4-inch diameter or greater criterion." Also add, any sighting or encounters with listed species will be recorded by RE and summarized in a report at the end of the land clearing activities.

Now what we need from GeoSyntec is a letter stating the above, citing the document you just sent and your effects determination that the proposed land clearing action may affect but is not likely to adversely affect the listed species based on the proposed avoidance and minimization measures (spell them out in your letter) to be implemented. We will then concur with your determination, and you are covered for the action.

Rightway Environmental should be familiar with this since they have worked on Vieques and Roosevelt Roads.

Felix Lopez

US Fish and Wildlife Service
Caribbean Ecological Services FO
787 510 5208 Cell

No one knows what we do, but we are the only ones that can do it and we do it well.....

From: Jaime Feliciano <JFeliciano@Geosyntec.com>
Sent: Thursday, October 14, 2021 1:33 PM
To: Lopez, Felix <felix_lopez@fws.gov>; Adrienne Miller <AMiller@Geosyntec.com>
Cc: Amy Padovani <APadovani@Geosyntec.com>; Miguel Parames <MParames@Geosyntec.com>; luna.zolymar@epa.gov <luna.zolymar@epa.gov>
Subject: RE: [EXTERNAL] RE: Application for Consultation and Guidance, Eligibility Criterion for SWPPP Plan, Proteco Superfund Site, Penuelas, PR.

Felix. Attached is a copy of the clearing plan approved by the EPA, which includes an interim SWPPP as part of the proposed activities. Let me know if you would like to discuss.

Thanks so much.

Jaime Feliciano, PG (FL, TN, PR)
Senior Geologist



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From: Lopez, Felix <felix_lopez@fws.gov>
Sent: Thursday, 14 October, 2021 12:55 PM
To: Jaime Feliciano <JFeliciano@Geosyntec.com>; Adrienne Miller <AMiller@Geosyntec.com>
Cc: Amy Padovani <APadovani@Geosyntec.com>; Miguel Parames <MParames@Geosyntec.com>; luna.zolymar@epa.gov
Subject: Re: [EXTERNAL] RE: Application for Consultation and Guidance, Eligibility Criterion for SWPPP Plan, Proteco Superfund Site, Penuelas, PR.

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Jaime, you still have to comply with the Endangered Species Act, well actually EPA has to since they are the federal nexus, but for CGP they pass that responsibility on to the applicant. In a perfect world EPA would have included Endangered Species

Act compliance as an ARAR for the site, but I guess not. Other than emails, our office has not seen any documents regarding the site, not even the SWPPP, or a work plan.

Since the site is heavily vegetated for decades, it may have developed enough structure to harbor sensitive species. Fortunately, you will be clearing outside of the February - July nesting season for the PR whip-poor-will or guabairo, which is known to be in the area and they can nest in previously disturbed sites.

Path forward, since there is no ARAR compliance, the next best thing is do an informal consultation. Look at the possible species present, (boa, guabairo, plants), send us a letter outlining the work to be done, site map, areas to be impacted, conservation measures to be taken, and last but no least your effects determination on the species, example, Not Likely to Adversely Effect for the guabairo because its outside of the nesting season. For the boa enclosed are our boa conservation measures, for the plants, the only way to determine possible impacts is presence/absence via surveys.

Felix Lopez
US Fish and Wildlife Service
Caribbean Ecological Services FO
787 510 5208 Cell

No one knows what we do, but we are the only ones that can do it and we do it well.....

From: Jaime Feliciano <JFeliciano@Geosyntec.com>
Sent: Thursday, October 14, 2021 11:24 AM
To: Lopez, Felix <felix_lopez@fws.gov>; Adrienne Miller <AMiller@Geosyntec.com>
Cc: Amy Padovani <APadovani@Geosyntec.com>; Miguel Parames <MParames@Geosyntec.com>
Subject: RE: [EXTERNAL] RE: Application for Consultation and Guidance, Eligibility Criterion for SWPPP Plan, Proteco Superfund Site, Penuelas, PR.

Good morning Felix. Thanks for your assistance.

I wanted to inform you that the proposed and required clearing activities have been approved by the EPA at the Proteco Site and are scheduled to start on Monday, November 15th of 2021.

Please let us know your thoughts on this matter and if we need to provide you with any additional information. Thanks

Jaime Feliciano, PG (FL, TN, PR)
Senior Geologist



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From: Lopez, Felix <felix_lopez@fws.gov>
Sent: Tuesday, 12 October, 2021 4:58 PM
To: Jaime Feliciano <JFeliciano@Geosyntec.com>; Adrienne Miller <AMiller@Geosyntec.com>
Cc: Amy Padovani <APadovani@Geosyntec.com>; Miguel Parames <MParames@Geosyntec.com>
Subject: Re: [EXTERNAL] RE: Application for Consultation and Guidance, Eligibility Criterion for SWPPP Plan, Proteco Superfund Site, Penuelas, PR.

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Thanks, I sent an email to the EPA PM to see what is going on.

Felix Lopez
US Fish and Wildlife Service
Caribbean Ecological Services FO
787 510 5208 Cell

No one knows what we do, but we are the only ones that can do it and we do it well.....

From: Jaime Feliciano <JFeliciano@Geosyntec.com>
Sent: Tuesday, October 12, 2021 4:34 PM
To: Adrienne Miller <AMiller@Geosyntec.com>; Lopez, Felix <felix_lopez@fws.gov>
Cc: Amy Padovani <APadovani@Geosyntec.com>; Miguel Parames <MParames@Geosyntec.com>
Subject: Re: [EXTERNAL] RE: Application for Consultation and Guidance, Eligibility Criterion for SWPPP Plan, Proteco Superfund Site, Penuelas, PR.

Thanks Adrienne. Proteco is currently listed on the EPA web page as a superfund site.

Jaime Feliciano, PG (FL, TN, PR)
Senior Geologist

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From: Adrienne Miller <AMiller@Geosyntec.com>
Sent: Tuesday, October 12, 2021 4:26:19 PM
To: felix_lopez@fws.gov <felix_lopez@fws.gov>
Cc: Amy Padovani <APadovani@Geosyntec.com>; Jaime Feliciano <JFeliciano@Geosyntec.com>; Miguel Parames <MParames@Geosyntec.com>
Subject: RE: [EXTERNAL] RE: Application for Consultation and Guidance, Eligibility Criterion for SWPPP Plan, Proteco Superfund Site, Penuelas, PR.

Hi Felix,

Thanks for speaking with me this afternoon. It was a very informative call on the USFWS process on determining the potential project effects on ESA-listed species in Puerto Rico. FYI, for more background on the Proteco Project, please see the email chain below on the Project scope of work involved in clearing the site to allow access for a site reconnaissance.

I wanted to summarize our call to make sure that we understand the two potential pathways in working with the USFWS:

1. Pathway 1: If the Proteco Project is classified as a Superfund site, then typically, Superfund sites are exempt from getting coverage under certain permits. Rather they must comply with substantive (i.e. equivalent) requirements. In the case of a USFWS effects determination, the client would work with the USEPA and USFWS to have an informal conversation about the SOW of the Project, and collaborate with the USEPA to add any mitigation measures into the Site Plan submitted to the USEPA.
2. Pathway 2: If the Project is not classified as a Superfund site, then the USFWS may require a pre-construction vegetation survey to determine what ESA-listed species exist onsite. This survey would be performed by a botanist. Based on what those ESA-listed species are, the client would need to submit a letter to the USFWS stating which ESA-listed species occur on-site and what pre-construction mitigation measures will be put in place to mitigate the effects on any ESA-listed species. For example:
 - a. Land clearing will occur outside the nesting season of any ESA-listed bird species;
 - b. During clearing, the contractor will ensure that the cutting tools are maintained a minimum of six (6) inches from the ground surface to avoid impacts to the root system of any ESA-listed vegetation species found on-site, etc.

The USDWF will then respond with its determination if the project has a “No Effect” or “May Effect” determination. Then the client could proceed with construction after USFWS approval is received.

Does the summary above accurately reflect our call? Please feel free to correct any misinterpretations or provide any additional detail.

You also mentioned that the USFWS has a list of proscriptive mitigation measures and/or best management practices (BMPs) in case ESA-listed species like boas are found on construction sites. Can you send us those BMPs and/or a link to a webpage where we can pull that information?

Jaime, please confirm that Proteco is currently classified as a Superfund site. If that is the case, we can proceed with Pathway 2.

Thanks a lot,
Adrienne

Adrienne V. Miller, PE (CA), QSP/QSD, QISP

Senior Engineer

(she/her/hers/Ms.)

Geosyntec Consultants, Inc.

760-258-5010 Cell

amiller@geosyntec.com

Part-Time Work Schedule: M-TH 8am-5pm

From: Rivera, Marelisa <marelisa_rivera@fws.gov>

Sent: Thursday, 7 October, 2021 11:08 AM

To: Jaime Feliciano <JFeliciano@Geosyntec.com>

Cc: Miguel Parames <MParames@Geosyntec.com>; Lopez, Felix <felix_lopez@fws.gov>; Roman, Damaris <damaris_roman@fws.gov>

Subject: Re: [EXTERNAL] RE: Application for Consultation and Guidance, Eligibility Criterion for SWPPP Plan, Proteco Superfund Site, Penuelas, PR.

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Jaime:

We are working remotely.

Please call Felix at 787-510-5208.

Felix can explain you the process of making effect determinations, incorporating conservation recommendations to minimize possible effects to get to the NLAA. Once you make the effects determinations, you enter them into the EPA's system, and we will receive an email to review them. We have 14 days to review the documentation you entered, and concur or not concur. We do everything through the system.

Felix can you please provide the links.

Thanks

marelisa

I am working remotely at this time. If you need assistance, please contact me at emails or mobile below. If you are sending a request for technical assistance or Section 7 consultation, please contact us at Caribbean_es@fws.gov

Marelisa Rivera
Deputy Field Supervisor
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Caribbean Ecological Services Field Office
P.O. Box 491 / Road 301, Km 5.1
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FACEBOOK: <https://www.facebook.com/USFWSCaribbean>
FLICKR: <https://www.flickr.com/photos/usfwssoutheast/sets/72157626859158391/>

There are three constants in life...change, choice and principles.
Stephen R. Covey

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From: Jaime Feliciano <JFeliciano@Geosyntec.com>
Sent: Thursday, October 7, 2021 10:19 AM
To: Muniz, Edwin <edwin_muniz@fws.gov>; Rivera, Marelisa <marelisa_rivera@fws.gov>; Lopez, Felix <felix_lopez@fws.gov>
Cc: Miguel Parames <MParames@Geosyntec.com>
Subject: [EXTERNAL] RE: Application for Consultation and Guidance, Eligibility Criterion for SWPPP Plan, Proteco Superfund Site, Penuelas, PR.

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Good morning Edwin, Marelisa and Felix:

We are hoping you are all well. My name is Jaime Feliciano and I am the Geosyntec project manager for the Proteco Site. I wanted to follow up with you on our previous communication submitted by Miguel (below) with regards to our request for the consultation. We would like to know if our email was received at your end, and if there are any immediate comments or suggestions with regards to

the subject matter. I have been calling the FWS offices in PR, but have not been able to contact with anybody in the last couple of weeks. I would appreciate your response. I can be contacted at the numbers below, specifically on my cell phone. Thanks again.

Jaime Feliciano, PG (FL, TN, PR)
Senior Geologist



engineers | scientists | innovators

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From: Miguel Parames <MParames@Geosyntec.com>

Sent: Monday, 23 August, 2021 2:47 PM

To: edwin_muniz@fws.gov; marelisa_rivera@fws.gov; felix_lopez@fws.gov

Cc: Jaime Feliciano <JFeliciano@Geosyntec.com>; Amy Padovani <APadovani@Geosyntec.com>;

Adrienne Miller <AMiller@Geosyntec.com>; Todd Kafka <TKafka@Geosyntec.com>

Subject: Application for Consultation and Guidance, Eligibility Criterion for SWPPP Plan, Proteco Superfund Site, Penuelas, PR.

Good afternoon,

Geosyntec Consultants, Inc. is preparing an EPA Stormwater Pollution Prevention Plan (SWPPP) for the Proteco Superfund Site (Site) located in Penuelas, PR, on behalf of the Proteco Landfill Generators Parties Group. The former TSDF conducted waste management and disposal activities from approximately 1975 until 1999. In 2003, the Site was abandoned and since that time, there has been no maintenance of the landfill surfaces. The entire Site has become overgrown with secondary forest growth consisting of small and a few mature hardwood trees.

The scope of work for the proposed construction activity includes clearing the Site of vegetation (approx. 50 acres) with minimal disturbance, to allow surveys of the former waste disposal units and property boundary, and to facilitate a Site Reconnaissance. Clearing of vegetation at the Site will be focused on and restricted to brush and small trees that are less than four (4) inches in diameter. The diameter of the trees will be measured at chest height with a tape in the field. The removal of tree stumps and roots is not proposed. During clearing, the contractor will ensure that the cutting tools are maintained a minimum of six (6) inches from the ground surface to avoid impacts to the root system or the existing soil cover. Additionally, the Clearing Plan will indicate that areas with steep, natural, or engineered slopes at the Site will not be cleared of vegetation. The clearing process is expected to generate a thin layer of mulch approximately 0-4 inches or less in thickness.

As part of the SWPPP preparation, Section 3.1 of the SWPPP requires selection of an Eligibility

Criterion with respect to the protection of endangered species. The site is located approximately 0.65 miles north of critical habitat (see attached Figure). A preliminary assessment from the US Fish and Wildlife Service (FWS) Information for Planning and Consultation (IPaC) website indicates six (6) species potentially affected by the activities within the project area (action area). These species are:

ESA-listed Species (see attached):

Puerto Rican Nightjar *caprimulgus noctitherus*
Puerto Rican Boa *Epicrates inornatus*
Bariaco Trichilia *triacantha*
Eugenia Woodburyana
Vahl's Boxwood *Buxus vahlia*
Varronia *Rupicola*

Per Appendix D of the EPA Construction General Permit (CGP), we are contacting the FWS to provide consultation/coordination on which measures to implement to avoid the likelihood of adverse effects ESA listed species based on construction activities proposed. The purpose of this initial contact is to satisfy Criterion D in Section 3.1 of the SWPPP. Criterion is outlined below:

Criterion D: *Coordination between you and the USFWS and/or NMFS has concluded. The coordination must have addressed the effects of your site's discharges and discharge-related activities on ESA-listed species and/or designated critical habitat under the jurisdiction of USFWS and/or NMFS, and resulted in a written concurrence from USFWS and/or NMFS that your site's discharges and discharge-related activities are not likely to adversely affect listed species and/or critical habitat. You must include copies of the correspondence with the participating agencies in your SWPPP and this NOI.*

We look forward to working with you on this matter.

Respectfully,

Geosyntec Consultants, Inc.

Miguel Parames, PE¹, QSP/QSD

Senior Engineer

Geosyntec Consultants, Inc.

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San Diego, CA 92108

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¹ California

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